

U.S.S.N. 10/784,616

7

STR 0109 PUS

**REMARKS**

Claims 15 through 43 are currently pending in this Application.

The Examiner has indicated that the Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. § 120. The Examiner has also objected to the specification due to a minor informality. Additionally, the Examiner rejected claims 26-28 under 35 U.S.C. § 112, second paragraph, as being indefinite. Further, the Examiner rejected claims 15-28 under 35 U.S.C. § 102(b) as anticipated by Kasper. Moreover, the Examiner rejected claims 29-31 under 35 U.S.C. § 103(a) as obvious over Kasper in view of Marietta et al. Lastly, the Examiner rejected claim 32 under 35 U.S.C. § 103(a) as obvious over Kasper in view of Marietta et al. as applied to claim 29 above, and furthering view of Christensen.

Each of these objections and rejections of record is addressed individually below.

**The Priority Requirement:**

The Examiner indicated that the Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. § 120. Specifically, the Examiner indicated that the present Application improperly claimed priority from a non-co-pending application. The parent application from which the present Application claims priority inadvertently became abandoned at the time the Examiner considered the present Application, but the parent application was pending at the time the present Application was filed. Moreover, upon a properly filed Petition to Revive, the parent application (Serial No. 10/232,023) was revived and has now issued as U.S. Patent No. 6,772,447. Nevertheless, the present Application and the parent application that resulted in U.S. Patent No. 6,772,447 were co-pending at the time the present Application was filed. Accordingly, the claim of priority for the present Application is proper.

It is thus submitted that the Examiner's concerns about the claim of priority of the present Application have since been cured.

U.S.S.N. 10/784,616

8

STR 0109 PUS

**The Objections to the Specification:**

The Examiner objected to the specification due to a minor informality. Specifically, the Examiner indicated that the disclosure improperly refers to Application Serial No. 10/232,023. It is believed that the Examiner's objections were based on the fact that the parent application referred to in the specification of the present Application had inadvertently gone abandoned at the time the Examiner considered the present Application and issued his Office Action. As set forth above, the Applicant corrected the inadvertent error in the above case and the co-pendency of the applications has been corrected.

Accordingly, it is submitted that the objections to the specification have been rendered moot.

**The Section 112 Claim Rejections:**

The Examiner rejected claims 26-28 under section 112, second paragraph, as indefinite for failing to particularly point out and distinctly claim the subject matter, which Applicant regards as the invention. Specifically, the Examiner objected to an antecedent basis issue with respect to the term "shell portion." It is submitted that claim 26 has been amended to correct this antecedent basis issue. It is also submitted that this correction to claim 26 was not made for purposes of patentability.

**The Section 102(b) Rejections:**

The Examiner rejected claims 15-28 under 35 U.S.C. § 102(b) as anticipated by Kasper. In general, Kasper differs from Applicant's claimed invention in that it teaches what appears to be a helmet having a transparent shield secured to the shell portion and a chin guard that is intended to retain the helmet in contact with a wearer's chin. The helmet also includes a chin strap that contacts underneath a wearer's jaw. The purpose of the chin strap is to prevent the helmet from coming off the wearer's head. The rejection with respect to each of the independent claims in view of Kasper is addressed individually below.

**Claim 15:**

Claim 15 as amended requires a protective sports helmet having a hard shell portion for protecting a wearer's head and a lining secured to the inner side of the hard shell. The hard shell includes a chin strap which attached to either side thereof. A

U.S.S.N. 10/784,616

9

STR 0109 PUS

facemask portion consisting of a plurality of horizontal and vertical bars is secured to at least one point of the shell portion. A solid plastic mouthpiece is connected to the facemask portion. The mouthpiece portion has a plurality of openings formed therein.

Kasper does not teach or embody claim 15 for at least the reasons discussed below. Initially, Kasper does not teach a chin strap that is intended to engage a wearer's chin. The chin strap disclosed in Kasper lies loosely underneath the wearer's jaw. Indeed, Kasper teaches that:

When the helmet is correctly positioned, the lower edge 95 of the mouth and chin guard 94 will rest on the chin of the wearer so that the face protective apparatus will be held stable.

(Col. 8, lines 10-13.) Thus, it is the mouth and chin guard 94 that contacts a wearer's chin and not the chin strap 100. Therefore, Kasper does not teach the chin strap of claim 15 and claim 15 is allowable for at least this reason alone.

Further, Kasper does not teach a facemask portion having a plurality of horizontal and vertical bars. The structure the Examiner refers to as the "facemask" in Kasper constitutes a transparent shield. The cage facemask portion is advantageous over the Kasper transparent shield in that the transparent shield has tendency to "fog" up as well as to increase the heat to the wearer's face. Therefore, Kasper does not teach Applicant's claimed facemask portion and claim 15 is allowable over Kasper for this additional reason.

Moreover, Kasper does not teach a generally solid mouthpiece – let alone a generally solid mouthpiece having a plurality of openings formed therein. Kasper teaches a mouth and chin guard consisting of a "cage" that extends downwardly and inwardly from the transparent shield to assist in retaining the helmet on the wearer's chin. The caged mouth and chin guard of Kasper is not a solid structure and is does not provide the same structural stability as the claimed mouthpiece. Accordingly, Kasper does not teach Applicant's claimed mouthpiece and claim 15 is allowable over Kasper for still this additional reason.

It is therefore respectfully submitted that claim 15 is allowable over the art and that claims 16-18, which depend from claim 15, are therefore allowable for the same reasons provided above in connection with claim 15.

U.S.S.N. 10/784,616

10

STR 0109 PUS

**Claim 19:**

Claim 19 as amended requires a protective sports helmet having a hard shell portion and a facemask in communication with the shell portion. The facemask includes a plurality of horizontal bars and a plurality of vertical bars, which together form a cage. The helmet includes a visor secured to the shell portion. The visor overlies an upper portion of the facemask. The shell portion is in communication with a chin strap, which is intended to engage a wearer's chin. The helmet also includes a generally solid plastic mouthpiece secured to the facemask. The mouthpiece has a plurality of vent openings formed therethrough.

Kasper does not teach or embody claim 19 for at least the reasons discussed below. Initially, Kasper does not teach a visor – let alone a visor that extends over a portion of the facemask. The claimed visor is intended to deflect some of the sun away from the wearer's face and therefore reduce glare. The visor also assists in preventing rain from entering the helmet. Claim 19 is allowable over Kasper for at least this reason alone.

Further, Kasper does not teach Applicant's claimed facemask for at least the same reasons provided above in connection with claim 15. Specifically, Kasper teaches a transparent shield as opposed to a cage, which increases the heat build up as well as the tendency to fog. Applicant's claimed facemask provides significantly increased ventilation. Claim 19 is therefore allowable for this additional reason.

Additionally, Kasper does not teach Applicant's claimed generally solid mouthpiece, including openings, for at least the reasons provided above in connection with claim 15 above. Moreover, Kasper does not teach Applicant's claimed chin strap for at least the same reasons provided above in connection with claim 15.

It is therefore respectfully submitted that claim 19 is allowable over the art and that claims 20-22, which depend from claim 19, are therefore allowable for the same reasons provided above in connection with claim 19.

**Claim 23:**

Claim 23 as amended requires a protective sports helmet having a hard shell portion for receiving and protecting a wearer's head and a lining secured to a substantial portion of an inner side of the hard shell portion. The hard shell portion is

U.S.S.N. 10/784,616

11

STR 0109 PUS

in releasable engagement with a chin strap. The hard shell portion is secured to the facemask portion, which has a plurality of generally horizontal and vertical bars. The facemask portion is secured to a generally solid mouthpiece having at least one opening that is oriented generally diagonally.

Kasper does not teach or embody claim 23 for at least the reasons discussed below. Initially, Kasper does not teach a lining secured to a substantial portion of the inner side of the shell. Instead, Kasper teaches "a series of parallel padding strips which extend longitudinally front to back over the head of the wearer." (Col. 7, lines 51-53.) This configuration provides significantly less comfort than Applicant's claimed invention. It is submitted that claim 23 is allowable over Kasper for at least this reason alone.

Further, Kasper does not teach a facemask portion having a plurality of horizontal and vertical bars for at least the reasons provided above in connection with claim 15. It is therefore submitted that claim 23 is allowable for this additional reason.

Additionally, Kasper does not teach Applicant's claimed generally solid mouthpiece, including openings, for at least the reasons provided above in connection with claim 15 above.

It is therefore respectfully submitted that claim 23 is allowable over the art and that claims 24-25, and 33-34, which depend from claim 23, are therefore allowable for the same reasons provided above in connection with claim 23.

**Claim 26:**

Claim 26 as amended includes a protective sports helmet having a hard plastic shell and a visor secured to the hard plastic shell. The helmet includes a facemask in communication with the shell portion that is intended to protect a wearer's face. The facemask has a plurality of generally horizontal and vertical bars. The plastic shell has a lining secured to an inner side thereof. The shell has at least three ear holes formed therein. Further, the front edge of the visor extends over at least a portion of the facemask to assist in blocking out glare.

Kasper does not teach or embody claim 26 for at least the reasons discussed below. Initially, Kasper does not teach a visor portion secured to shell portion for at

U.S.S.N. 10/784,616

12

STR 0109 PUS

least the reasons provided above in connection with claim 19. It is therefore submitted that claim 26 is allowable over the art for at least this reason.

Further, Kasper does not teach the claimed facemask having a plurality of generally horizontal and vertical bars for at least the reasons provided above in connection with claim 15. It is submitted that claim 26 is allowable for this additional reason.

Additionally, Kasper does not teach the claimed chin strap for at least the reasons provided above in connection with claim 15.

Moreover, Kasper does not a helmet where a visor – let alone any portion of the helmet – extends over any portion of the facemask or shield. Kasper does not teach or suggest any structure for minimizing glare to a wearer, such as can occur from the sun. It is thus submitted that claim 26 is allowable for this yet other reason.

Accordingly, it is therefore submitted that claim 26 is allowable over the art and that claims 27-28, and 35, which depend therefrom, are allowable for the same reasons provided above in connection with claim 26.

**Claim 36:**

Claim 36 is newly added and requires a protective sports helmet having a hard shell portion for covering and providing protection to a wearer's head. The shell portion has a lining secured to an inner side thereof. The hard shell portion has a chin strap in releasable engagement with each side. The helmet includes a facemask portion having a plurality of horizontal and vertical bars, which is attached to at least one point of the hard shell portion. The facemask portion is connected to a generally solid mouthpiece. The generally solid mouthpiece has at least one opening formed therein. Each side of the helmet has at least three ear holes formed in each side thereof.

It is submitted that claim 36 is allowable over the art for at least reasons that Kasper does not teach a facemask portion for at least the reasons provided above in connection with claim 15. It is submitted that claim 36 is allowable for at least this reason alone.

U.S.S.N. 10/784,616

13

STR 0109 PUS

Further, neither Kasper or any of the other references of record teach a generally solid mouthpiece having at least one opening formed therein. It is thus submitted that claim 36 is allowable for this additional reason.

Accordingly, it is submitted that claim 36 is allowable over the art and that claims 37-43, which depend therefrom, are allowable for the same reasons provided above in connection with claim 36.

**Claim 44:**

Newly added claim 44 requires a protective sports helmet including a hard plastic shell and a visor secured to the hard plastic shell. The helmet includes a facemask in communication with the shell portion and intended to protect a wearer's face. The facemask has a plurality of generally horizontal and vertical bars. The plastic shell includes a plurality of vent openings. The helmet also includes at least three ear holes formed in at least one side of the helmet. The helmet further includes a lining secured to an inner side of the hard plastic shell. The lining is secured to substantially the entirety of the inner side except for an area the area adjacent the ear holes and adjacent the plurality of vent openings.

None of the references of record teach or suggest Applicant's invention of claim 44.

**The Section 103 Claim Rejections:**

**Claim 29:**

The Examiner rejected claims 29-31 under 35 U.S.C. § 103(a) as obvious over Kasper in view of Marietta et al.

Claim 29 as amended requires a protective sports helmet having a shell portion and a facemask secured the to the shell portion. The facemask has a visor portion secured thereto, which extends over at least a portion of the facemask. The shell portion is in releasable engagement with a chin strap. The shell portion has a plurality of ear holes formed therein. The inner side of the shell portion has a lining secured thereto. The lining has a first portion that is releasably engageable with the inner side to allow a wearer to achieve a better fit. The lining also includes a second portion that is not in releasable engagement with the inner side.

U.S.S.N. 10/784,616

14

STR 0109 PUS

Kasper does not teach or embody claim 29 for at least the reasons discussed below. Initially, Kasper does not teach a visor portion secured to shell portion for at least the reasons provided above in connection with claim 19. It is therefore submitted that claim 29 is allowable over the art for at least this reason.

Further, Kasper does not teach the claimed facemask having a plurality of generally horizontal and vertical bars for at least the reasons provided above in connection with claim 15. It is submitted that claim 29 is allowable for this additional reason.

Additionally, Kasper does not teach a lining having a first portion that is releasable and a second portion that is not removable (interchangeable) from the helmet. Further, while the Marietta et al. reference teaches a plurality of pads in releasable engagement with the inner side of the helmet, it teaches that all of the pads are removable. This provides a helmet that is somewhat cumbersome for the user and requires a use to keep multiple different additional pads for sizing. If one of the parts is lost, the fit of the helmet can be lost. Conversely, Applicant's claimed invention has a single releasable lining portion, while the remainder of the lining is permanent. This provides a more efficient and less costly fitting helmet.

It is therefore submitted that claim 29 is allowable over the art and that claims 30-32, which depend therefrom, are allowable for the same reasons provided above.

**Conclusion:**

It is respectfully submitted that all objections and rejections of record have been overcome and that all claims are in condition for allowance. A Notice of Allowance is therefore earnestly solicited.



U.S.S.N. 10/784,616

15

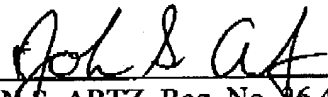
STR 0109 PUS

If the Examiner should have any questions, he is urged to contact the undersigned at 248-223-9500.

Respectfully Submitted,

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